

REMARKS

The Office Action dated May 24, 2007 has been received and carefully reviewed. In the above amendment, claims 2, 9, 10, and 12 were cancelled without prejudice or disclaimer, claims 1, 18, and 20 were amended, and new claims 27-30 were added. Reconsideration of the pending claims is respectfully requested in view of the above amendment and the following remarks.

I. CLAIM OBJECTIONS

Claim 1 was objected to for typographical errors in spelling of the words safety and collide in line 8. By the above amendment, these errors have been corrected in claim 1, whereby the objection is believed to have been overcome.

II. CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 1, 2, and 8-26 were rejected under 35 U.S.C. §103 as being unpatentable over Holler 6,134,849 and Jones 5,842,667. Reconsideration and withdrawal of these claim rejections is respectfully requested for at least the following reasons.

Independent claim 1 and the corresponding dependent claims 8, 11, 13-17, 19, and 25-28 involve a flying arrangement including a flying unit and a hall with boundary means that allow the flying unit to fly freely within the boundaries of the hall. The independent claim 1 has been amended above to more clearly recite structural components of the flying arrangement in accordance with the Examiner's comments in the Response to Arguments section of the Office Action, wherein claim 1 now positively recites control means of the at least one flying unit as well as boundary means of the hall that prevent the flying unit from leaving the hall and from colliding with the hall boundaries without safety risk. Independent claim 20 has also been amended above to recite hall boundary means and flying unit control means, whereby claims 20-24 and 30 include these structural features.

The features of amended independent claims 1 and 20 patentably distinguish over the proposed combination of Holler with Jones. The Office Action cites to Holler as disclosing a non-pressurized convex-shaped hall with boundaries, which is acknowledged in the Office Action to be partially open at the portal 14 (Fig. 1), and which is identified as

capable of use as an aircraft hangar (col. 1, line 16). In the above amendments, the arrangements of independent claims 1 and 20 include flying unit control means and boundary means that prevent the flying unit from leaving the hall. As Holler includes the portal 14, Holler fails to teach or suggest this feature, and Jones fails to remedy this deficiency. Therefore, the proposed combination of Jones with Holler fails to teach each and every element of independent claims 1 and 20. Furthermore, Holler appears to teach away from the claimed control and boundary means. If Holler were modified so as to prevent a flying unit from leaving the interior (e.g., by removing the portal 14), it would be rendered inoperable as a hangar, which is acknowledged in the Office Action to be a goal of Holler. Consequently, the subject matter of claims 1, 8, 11, 13-17, 19-28, and 30 is patentably distinct from Holler and Jones, and Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. §103 for at least these reasons.

In addition, the claimed hall allows the flying unit to fly freely within the hall boundaries. This is clearly not taught or suggested by Holler. Rather, the structure of Holler does not appear to allow free flight within the interior as judged from the size of the portal 14, and a person of ordinary skill in the art would conclude that the Holler structure is incapable of allowing internal free flight. Jones likewise fails to teach or fairly suggest a hall allowing free flight within the hall boundaries, where Jones is instead directed to a mass transit system that travels in the open between cities or city buildings. Thus, for this additional reason, the proposed combination of Holler with Jones does not render independent claims 1 and 20 obvious whereby reconsideration and withdrawal of the rejections is requested under 35 U.S.C. §103.

Further in this regard, Applicant notes that the Office Action fails to allege a reason for modifying the structure of Holler to allow interior constrained free flight. Instead, the Office Action states on page 3 that "it would have been obvious to one of ordinary skill in the art to utilize the non-pressurized hall of Holler to *store* the flying unit of Jones." Thus, whereas claims 1 and 20 are clearly directed to a flying arrangement that allows a person to fly freely within hall boundaries using a flying unit, the purported motivation Office Action does not address the hall feature of allowing free flight, but instead alludes to the capability

for storing a flying unit. The Office Action provides no other indication of a reason or motivation for modifying Holler or for combining Holler with Jones. Moreover, the references themselves appear silent with respect to such a reason or motivation. Thus, no *prima facie* case of obviousness has been established, and Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. §103 for this additional reason.

With respect to dependent claim 15, the Office Action alleges that use of a position-detection device in any hangar is *very well known in the art* in order to monitor the position of the flying units around the hall. This statement is not supported by the cited references, and the Office Action makes no citation to any prior art reference that allegedly teaches or suggests the features of claim 15. Furthermore, Applicant submits that such use *cannot* be well known, as the prior art has not been shown to contemplate flying units flying in a hall. Applicant accordingly requests that this assertion be withdrawn or properly supported in the next Office Action. In particular, Applicant submits that the above statement in the Office Action is being used to support a rejection under 35 U.S.C. §103 and appears to be based on facts within the personal knowledge of an employee of the Office, wherein the reference must be supported, when called for by the Applicant, by an affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the Applicant and other persons. Accordingly, Applicants request that support for the assertions in the Office Action that the subject matter of claim 15 is "well known in the art" be supported pursuant to 37 C.F.R. §1.104(d)(2) by an affidavit by the Examiner or other Patent Office employee to which these statements are attributed, or that these assertions be otherwise supported by reference to cited authority, or be withdrawn along with the rejection of claim 15 under 35 U.S.C. §103.

With respect to claims 16, 17, 19, and 24, the Office Action states on page 3 that "it does not appear that a remote control device is positively recited in these claims (for example, the limitations "the flying unit can be controlled" and "the flying unit can be guided")." This statement of the current Office Action of May 24, 2007 appears to be directly copied from the Office Action of November 20, 2006. In this regard, as submitted with Applicant's prior amendment, claim 16 was amended to recite that the flying unit

comprises a remote control device by which the flying device can be controlled, whereby a remote control device is clearly positively recited in claims 16, 17, and 19. Moreover, in Applicant's previous amendment, claim 24 was likewise amended to recite that the flying arrangement further *comprises a remote control device*. Thus, the Applicant fails to understand the repeated assertion on page 3 of the current Office Action that "it does not appear that a remote control device is positively recited in these claims". Applicant therefore respectfully submits that no proper rejection of claims 16, 17, 19, and 24 has been set forth, and thus no *prima facie* case of obviousness has been established since the Office Action has not addressed the previous amendments to claims 16 and 24, and since the current Office Action of May 24, 2007 does not appear to properly address the amended claims 16, 17, 19, and 24 (which include positive recitation of the remote control device). For at least these reasons, the rejection of claims 16, 17, 19, and 24 should be withdrawn under 35 U.S.C. §103.

Furthermore, the Office Action points to no other purported motivation or reason for modifying Holler or Jones to provide the remote control device features set forth in claims 16, 17, 19, and 24, whereby these claims are therefore deemed to be patentably distinct from the proposed combination of Holler with Jones and reconsideration thereof is respectfully requested for this additional reason under 35 U.S.C. §103.

In addition, the Office Action states on page 3 that "[i]t is very well known in the art to control an aircraft or any particular flying unit by an electronic device remotely from the aircraft." Again, the Office Action appears to rely upon this unsupported conclusory statement to support a rejection under 35 U.S.C. §103 and the statement appears to be based on facts within the personal knowledge of an employee of the Office, wherein the reference must be supported, when called for by the Applicant, by an affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the Applicant and other persons. Applicant accordingly requests pursuant to 37 C.F.R. §1.104(d)(2) that this assertion be withdrawn or properly supported in the next Office Action by an affidavit by the Examiner or other Patent Office employee to which these statements are attributed, or that these assertions be otherwise supported by

reference to cited authority, or be withdrawn along with the rejection of claims 16, 17, 19, and 24 under 35 U.S.C. §103.

Independent claim 18 likewise has not been addressed or properly rejected in the Office Action, whereby reconsideration thereof is requested under 35 U.S.C. §103. Specifically, the only reference to claim 18 appears in the third full paragraph on page 3 of the Office Action, which paragraph discusses the remote control device of claims 16, 17, 19, and 24, but fails to address all the elements of claim 18. Applicant notes that amended independent claim 18 recites a flying arrangement comprising a hall comprising at least two zones and at least one flying unit, as well as a positively recited remote control unit that operates to restrict flying with a flying unit to one of the zones or to certain zones. The Office Action points to no reference that in fact teaches or suggests a hall with multiple zones as claimed. Applicant notes the passing reference to Holler on page 2 of the Office Action that alleges that "[t]he hall comprises at least two zones (left and right side)." However, there is no teaching or suggestion in Holler that the paneled structure provides a left side zone and a right side zone as alleged in the Office Action. Moreover, the Office Action does not cite to any reference that teaches or suggests a remote control device that restricts flying to one zone or to certain zones as set forth in claim 18. For at least these reasons, no *prima facie* case of obviousness has been established with respect to claim 18 and reconsideration of the rejection of this claim is therefore requested under 35 U.S.C. §103.

New claim 27 depends from independent claim 1, and is accordingly patentably distinct from Holler and Jones for the reasons set forth above. In addition, this claim recites a tunnel assembly including self looping flying tunnels providing a closed path through which the at least one flying unit can move. Applicants note that neither Jones nor Holler teach or suggest such flying tunnels providing a closed flight path for a flying unit, and further note that this feature is neither taught nor suggested by Marumo cited in the previous Office Action against original claims 5 and 6, whereby new claim 27 is further patentably distinct for this additional reason, and favorable consideration thereof is respectfully requested.

New claims 28-30 depend respectively from independent claims 1, 18, and 20, and are thus patentably distinct from Holler combined with Jones for the reasons discussed above. In addition, these claims further provide that the hall has a horizontal dimension at least 20 times a horizontal dimension of the flying unit, and that the hall has a vertical dimension at least 20 times a height of the flying unit. This additional feature of the invention helps to ensure that the feeling of free flight is sufficiently pronounced and to ensure that the flying units are sufficiently mobile and do not approach the hall boundaries too soon. As there is no teaching or suggestion in the references for providing a hall and flying unit of these relative sizes, claims 28-30 are believed to be further patentably distinct whereby favorable consideration thereof is respectfully requested.

CONCLUSION

For at least the above reasons, the currently pending claims are believed to be in condition for allowance and notice thereof is requested.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should any fees be due as a result of the filing of this response, the Commissioner is hereby authorized to charge the Deposit Account Number 06-0308, PSEE200021.

Respectfully submitted,

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